

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

STEWART TITLE GUARANTY COMPANY,

Plaintiff,

-vs-

Case No. 3-:04-CV-239

DAYTON TITLE AGENCY, INC.,

**Judge Thomas M. Rose
Defendant.**

**ENTRY AND ORDER FINDING STEWART TITLE GUARANTY
COMPANY'S MOTION FOR STAY OF THE JUDGMENT (Doc. #19)
MOOT**

Now before the Court is Stewart Title Guaranty Company's Motion for Stay of the Judgment of the District Court Pending Appeal. (Doc. #19.) Following this Court's Entry and Order Affirming In Part and Reversing In Part Decisions of the United States Bankruptcy Court (doc. #12), Stewart Title appealed and Dayton Title Agency filed, in Bankruptcy Court, a Motion To Distribute Remaining Funds In Insurance Escrow To Certain Creditors (DTA Doc. #489). Dayton Title's Motion To Distribute was filed in the Bankruptcy Court. After the Motion To Distribute was filed, Stewart Title filed the Motion for a stay of this Court's Judgment that is now before this Court.

Stewart Title argues that this Court's judgment should be stayed and the proceeds not distributed because Stewart Title will be irrevocably harmed should the Court of Appeals rule in its favor after the escrow funds have been distributed. Stewart Title opposes this Motion because, among other reasons, Stewart Title has withdrawn its Motion To Distribute. Further, after the

Motion and Memorandum In Opposition were filed, the Appeal was voluntarily dismissed upon stipulation of the Parties. (Doc. #22.)

Therefore, Stewart Title Guaranty Company's Motion for Stay of the Judgment of this Court is MOOT. The Motion is Moot because Dayton Title Agency withdrew its Motion for distribution of the funds addressed by this Court's Order and because the Parties have stipulated to voluntary dismissal of Stewart Title Guaranty Company's Appeal.

DONE and **ORDERED** in Dayton, Ohio, this Second day of August, 2005.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record